IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

WP(C).No. 30954 of 2004(I)

PETITIONER:

K.N.SADANANDAN, S/O.K.A.NARAYANAN,
AGED 30 YEARS, CLERK, S.N.HIGHER SECONDARY SCHOOL,
P.O.OKKAL 683 550, PERUMBAVOOR.

BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA

RESPONDENTS:
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1. THE STATE OF KERALA, REP. BY THE
SECRETARY TO GOVERNMENT, GENERAL EDUCATION
DEPARTMENT, THIRUVANANTHAPURAM.

2. THE DISTRICT EDUCATIONAL OFFICER,
KOTHAMANGALAM.

3. THE ACCOUNTANT GENERAL (A&E)KERALA,
THIRUVANANTHAPURAM.

4. THE PRINCIPAL, S.N.HIGHER SECONDARY
SCHOOL, P.O.OKKAL, 683 550,
PERUMBAVOOR.

BY SR. GOVERNMENT PLEADER SMT. M.R. SREELATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO 30954/04

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. COPY OF THE AUDIT ENQUIRY NO.32 OF THE 3RD RESPONDENT

EXT.P2. COPY OF THE PETITION FILED BEFORE THE 1ST RESPONDENT

EXT.P3. COPY OF THE JUDGMENT IN W.P.(C) NO. 33666/2003 OF THIS HON'BLE COURT

EXT.P4. COPY OF THE G.O. (Rt.)NO. 3960/2004/G.Edn. OF THE GOVT.

EXT.P5. COPY OF THE CIRCULAR NO. 26790/J3/2006/G.Edn. OF THE GOVT.

/TRUE COPY/

PA TO JUDGE.

A.K. BASHEER, J.

W.P.(C). NO. 30954 OF 2004

Dated this the 2nd day of August, 2007

J U D G M E N T

Petitioner is stated to be working as a clerk in an Aided Higher Secondary School of which respondent No.4 is the Principal. Petitioner impugns Exts. P1 and P4 orders by which the Grade promotion given to him was objected to on the ground that he was not qualified to be promoted as Upper Division Clerk for want of test qualification.

2. Learned counsel submits that in view of Ext.P5 order issued by the Govt. on July 29, 2006, respondent No.1 may be directed to take a fresh decision in the matter in the light of the said order. A perusal of Ext.P5 shows that the Govt. has decided to exempt those clerks who had joined service in aided schools prior to November 19, 1994, from passing the test (MOP, Account Test, KE Act).

Therefore, Exts. P1 and P4 are quashed. The writ petition is disposed of with a direction to respondent No.1 to take a fresh decision in the matter strictly on its merit and in accordance with law, as expeditiously as possible, at any rate, within two months from the

date of receipt of a copy of this judgment. Needless to mention that apart from petitioner, manager of the school shall also be afforded sufficient opportunity to be heard before taking any decision in the matter. It is made clear that the merit of any of the contentions raised by the petitioner has not been considered in this writ petition.

A.K. BASHEER, JUDGE

vps

A.K. BASHEER, JUDGE

OP NO.20954/00

JUDGMENT

1ST MARCH, 2007